

AMENDED IN ASSEMBLY JUNE 17, 2004

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE MAY 4, 2004

AMENDED IN SENATE APRIL 28, 2004

AMENDED IN SENATE APRIL 15, 2004

AMENDED IN SENATE APRIL 12, 2004

AMENDED IN SENATE MARCH 17, 2004

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**SENATE BILL**

**No. 1168**

**Introduced by Senator Ortiz  
(Coauthor: Senator Kuehl)**

February 3, 2004

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An act to add Chapter 8 (commencing with Section 105440) to Part 5 of Division 103 of the Health and Safety Code, relating to public health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1168, as amended, Ortiz. Healthy Californians Biomonitoring Program.

Existing law establishes various programs for the protection of the public from exposure to toxins, including, but not limited to, the Childhood Lead Poisoning Prevention Act, administered by the State Department of Health Services, which imposes a fee upon manufacturers or persons who are responsible for lead contamination and applies the proceeds of the fee to reduction or elimination of the harm caused by the lead contamination.

This bill would, commencing January 1, 2006, similarly require the Division of Environmental and Occupational Disease Control within the department to establish the Healthy Californians Biomonitoring Program to, ~~with certain exceptions, assess a fee upon manufacturers or persons who directly produce toxic chemicals, as defined, and would authorize the department to adopt related regulations~~ *utilize biospecimens to identify toxic chemicals that are present in the bodies of Californians and would require the division to initiate plans to minimize exposure to those contaminants.* This bill would *require the director and the secretary to identify and list* toxic chemicals that are subject to the bill, would require a phased implementation of the listed chemicals, and would authorize the Office of Environmental Health Hazard Assessment within the California Environmental Protection Agency to adopt regulations ~~to add other chemicals to the list.~~

This bill would require the department and the agency to establish an advisory panel to assist the department and the agency, and would provide for a phased implementation of the biomonitoring program with full implementation commencing after completion of initial pilot programs which would be required to be completed by January 1, 2009.

~~This bill would require the agency to establish an appropriate fee schedule and would require the agency and the department to annually adjust the fee. The bill would establish the Healthy Californians Biomonitoring Fund for deposit of the fees and~~ *The bill would require the department and agency to jointly seek funding for the program from federal and private sources, to deposit those funds into the Healthy Californians Biomonitoring Fund exclusively for these purposes, and to jointly determine when sufficient funds have been deposited in the fund to commence implementation of the program. The bill would continuously appropriate the proceeds of the fee funds collected to the agency for the biomonitoring program. The bill would require the department to provide public access to information, and to report to the Legislature and the public.*

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

(a) Chronic disease has reached epidemic proportions in the United States. An estimated 125 million Americans, or 43 percent of the population, have at least one chronic condition. Approximately 60 million people, or 21 percent of the population, suffer from multiple chronic conditions. Chronic illness also affects the young. Roughly 20 million of America's children suffer from at least one chronic health problem. Cancer, asthma, birth defects, developmental disabilities, endometriosis, infertility, and multiple sclerosis are becoming increasingly common, and mounting evidence links incidence and severity of these diseases to environmental toxicants.

(b) Chronic diseases cost the state billions of dollars per year. For example, the estimated total cost of asthma in California is approximately \$1.27 billion annually. The estimated lifetime costs of medical and other treatment, plus lost productivity for all affected individuals born in 1988 with one or more of the 18 most common birth defects, exceeds \$1 trillion. Special education for children with learning disabilities, estimated to be more than one million California children, could carry an annual price tag of \$12 billion. Viewed in economic terms, and terms of treatment, care, and lost productivity, the cost of chronic diseases for both the public and the private sector is staggering.

(c) An estimated 85,000 chemicals are registered for use today in the United States. Another 2,000 chemicals are added each year. Some toxicological screening data exists for only 7 percent of these chemicals. More than 90 percent of these chemicals have never been tested for their effects on human health. Many of these chemicals are in daily use in cosmetics, hair products, pesticides, food dyes, cleaning products, fuels, and plastics. Moreover, many of these chemicals persist in the environment, and accumulate and remain in body fat, including breast tissue, for decades.

(d) Of the estimated 85,000 chemicals, many have been shown to be toxic to humans at various levels of exposure. The chemicals set forth in Chapter 8 (commencing with Section 105440) of Part 5 of Division 103 of the Health and Safety Code, represent those chemicals that the current scientific data have shown to cause harm to human health. The Legislature finds that action is necessary to identify the presence of these chemicals in individuals and communities, to educate and counsel affected individuals and

1 communities, and to develop strategies to prevent or minimize the  
2 harmful effects of the chemicals.

3 (e) The data produced through biomonitoring can support  
4 efforts to improve public health by indicating trends in chemical  
5 exposures, validating exposure modeling and survey methods,  
6 supporting epidemiological studies, identifying  
7 disproportionately affected communities or particularly  
8 vulnerable communities, assessing the effectiveness of current  
9 regulations, and helping to set priorities for action. Furthermore,  
10 the systematic collection and analysis of biospecimens from  
11 individuals may also have significant public health implications  
12 since individual body burden data may be useful in extrapolating  
13 the levels of exposure to environmental toxicants by a community  
14 as a whole.

15 (f) Biomonitoring studies have shown human contamination  
16 with a multitude of persistent chemicals is both chronic and  
17 widespread. A report by the Centers for Disease Control and  
18 Prevention in January 2003 documented the presence of 116  
19 environmental chemicals in the blood and urine of Americans of  
20 all ages and races. Breast milk research has detected more than 200  
21 toxic chemicals, including flame retardants, dioxins,  
22 polychlorinated biphenyls (PCBs), DDT, and other pesticides.  
23 Like no other body fluid, breast milk reflects the internal  
24 contamination of the target organ for breast cancer. Many of the  
25 contaminants found in breast milk are known to cause mammary  
26 tumors in animals. Germany and Sweden have national breast milk  
27 monitoring programs and this research has broad public health  
28 implications throughout the world. However, to date, relatively  
29 little research has been conducted in the United States to determine  
30 levels of contaminants in humans.

31 (g) The presence of toxins in breast milk raises a special health  
32 concern for breastfeeding mothers. However, the greatest risk  
33 from exposure to harmful chemicals is during in utero  
34 development, and medical research shows that mother's milk,  
35 with its species-specific optimal nutrition and its  
36 anti-inflammatory agents, including, but not limited to,  
37 antioxidants, helps a child develop a stronger immune system and  
38 other potential protections against environmental pollutants and  
39 pathogens. Breast milk is the most critical and nutritious food for  
40 infants. Studies also show that breast milk helps protect the infant



1 from illnesses and allergies, reduces the risk of childhood cancer  
2 and multiple sclerosis and heart disease later in life, and provides  
3 the infant with needed nutrients during critical periods of growth.  
4 Breastfeeding mothers, infants, and expectant mothers, remain a  
5 focus because certain persistent toxic chemicals tend to  
6 concentrate in breast milk, and because breastfeeding remains the  
7 healthiest manner of sustaining a young infant.

8 (h) The priority public policy recommendation from the 2002  
9 International Summit on Breast Cancer and the Environment, held  
10 in Santa Cruz, California, was to establish a national  
11 biomonitoring program in the United States using breast milk and  
12 other biospecimens to assess community health.

13 (i) In September 2001, the Legislature passed Senate Bill 702  
14 (Chapter 538, Statutes of 2001), making California the first state  
15 in the nation to begin planning a statewide environmental health  
16 tracking network for chronic diseases and environmental hazards  
17 and exposures. The SB 702 Expert Working Group spent more  
18 than a year on a mandated report on the development of a health  
19 tracking system in California for the State Department of Health  
20 Services and the Legislature. The report recommends the  
21 establishment of a statewide biomonitoring program.

22 (j) Therefore, the Legislature declares that a statewide  
23 biomonitoring program will expand the possibilities for  
24 biomedical, epidemiological, and behavioral public health  
25 research. There is a need for California, an established leader in  
26 health promotion, health policy, and health care delivery and  
27 response, to encourage and fund this research, which is vital to the  
28 health and well-being of millions of citizens by developing  
29 prevention measures for a full spectrum of diseases related to  
30 environmental exposures.

31 SEC. 2. Chapter 8 (commencing with Section 105440) is  
32 added to Part 5 of Division 103 of the Health and Safety Code, to  
33 read:

34  
35 CHAPTER 8. HEALTHY CALIFORNIANS BIOMONITORING PROGRAM

36  
37 Article 1. General

38  
39 105440. (a) This chapter shall be known, and may be cited,  
40 as the Healthy Californians Biomonitoring Program.

(b) For the purposes of this chapter, the following words have the following meanings:

(1) “Department” means the State Department of Health Services.

(2) “Agency” means the California Environmental Protection Agency.

(3) “Director” means the Director of Health Services.

(4) “Secretary” means the Secretary for Environmental Protection.

(5) “Division” means the Division of Environmental and Occupational Disease Control within the department.

(6) “Office” means the Office of Environmental Health Hazard Assessment within the agency.

(7) “Division director” means the director of the division.

(8) “Office director” means the director of the office.

(9) “Biomonitoring” means the process by which the presence and concentration of toxic chemicals and their metabolites are identified within a biospecimen as a means to assess the chemical body burden.

(10) “Biospecimen” means a sample of human blood, hair, urine, breast milk, body fat and other body tissue, or any other biophysical substance that is reasonably available as a medium to measure the presence and concentration of toxic chemicals.

(11) “Toxic chemicals” means those chemicals that have been demonstrated, through data provided by scientific peer-reviewed animal, cell, or human studies, to be known to negatively impact, or strongly suspected of negatively impacting, human health by contributing to an increase in serious illness or mortality, as set forth in Article 3 (commencing with Section 105451).

(12) “Fund” means the Healthy Californians Biomonitoring Fund established pursuant to Section 105457.

(13) “Panel” means the Healthy Californians Biomonitoring Program Advisory Panel established pursuant to Article 2 (commencing with Section 105448); definitions apply:

(1) “Agency” means the California Environmental Protection Agency.

(2) “Biomonitoring” means the process by which the presence and concentration of toxic chemicals and their metabolites are identified within a biospecimen as a means to assess the chemical body burden.

1 (3) “Biospecimen” means a sample of human blood, hair,  
2 urine, breast milk, body fat and other body tissue, or any other  
3 biophysical substance that is reasonably available as a medium to  
4 measure the presence and concentration of toxic chemicals.

5 (4) “Department” means the State Department of Health  
6 Services.

7 (5) “Director” means the Director of Health Services.

8 (6) “Division” means the Division of Environmental and  
9 Occupational Disease Control within the department.

10 (7) “Division director” means the director of the division.

11 (8) “Fund” means the Healthy Californians Biomonitoring  
12 Fund established pursuant to Section 105453.

13 (9) “Office” means the Office of Environmental Health Hazard  
14 Assessment within the agency.

15 (10) “Office director” means the director of the office.

16 (11) “Panel” means the Healthy Californians Biomonitoring  
17 Program Advisory Panel established pursuant to Article 2  
18 (commencing with Section 105448).

19 (12) “Secretary” means the Secretary for Environmental  
20 Protection.

21 (13) “Toxic chemicals” means those chemicals that have been  
22 demonstrated, through data provided by scientific peer reviewed  
23 animal, cell, or human studies, to be known to negatively impact,  
24 or strongly suspected of negatively impacting, human health by  
25 contributing to an increase in serious illness or mortality, as set  
26 forth in Article 3 (commencing with Section 105451).

27 (c) This chapter shall become operative January 1, 2006.

28 105441. The division in collaboration with the agency shall  
29 establish the Healthy Californians Biomonitoring Program. The  
30 division is the lead agency for the program unless otherwise  
31 specified in this chapter. The program shall utilize biospecimens,  
32 as appropriate, to identify toxic chemicals that are present in the  
33 bodies of Californians and shall initiate plans to minimize  
34 exposure to these contaminants. Biomonitoring shall take place on  
35 a strictly voluntary and confidential basis. Results reported  
36 pursuant to this chapter shall not disclose individual confidential  
37 information of participants. The program shall make services  
38 under this chapter available to persons and communities on a  
39 statewide basis.



1 105442. (a) The program's first activities shall be the  
2 examination of breast milk in three economically, racially, and  
3 geographically diverse communities, and shall identify the  
4 chemicals that are present in breast milk, investigate relationships  
5 between specific environmental toxins and geographic areas, and  
6 initiate plans to minimize exposure to these contaminants. The  
7 initial activities shall assist in refining protocols, material  
8 development, program planning, design implementation, and  
9 dissemination of findings by January 1, 2008.

10 (b) The program shall expand by examining any other  
11 biospecimens in additional communities by January 2009.  
12 *Appropriate biospecimens shall be used as a medium to monitor*  
13 *and assess the presence and concentration of a specified toxic*  
14 *chemical.*

15 105443. (a) All participants shall be evaluated for the  
16 presence of toxic chemicals as a component of the biomonitoring  
17 process. Participants shall receive consultation, health care  
18 referrals, followup counseling, and shall be offered educational  
19 activities and materials, including, but not limited to, possible  
20 routes of exposure, ways to reduce exposure, and state or local  
21 resources. Any public or private entity, including local agencies,  
22 may provide these activities by contract.

23 (b) In instances when a toxic chemical is detected in the  
24 program participants, the following may apply:

25 (1) The office, the Department of Toxic Substances Control,  
26 the Air Resources Board, and other public and private entities, as  
27 appropriate, may collaborate to determine the presence of a toxic  
28 chemical in the environment and possible routes of exposure, in  
29 quantifiable amounts. These entities may determine the presence  
30 through any of the following activities:

31 (A) The sharing of existing data and studies.

32 (B) The environmental assessments of soil, water, air, food,  
33 homes, consumer products, or aspects of a particular community.

34 (2) The department and the agency, in consultation with the  
35 panel, may develop recommendations for the reduction or  
36 minimization of the toxic chemical contamination or exposure.

37 (3) The department and the agency may contract with any  
38 public or private entity, including local agencies, to conduct  
39 activities set forth in this subdivision.





(c) The department may provide funding for community education programs to help avoid exposure or reduce harmful exposures.

(d) The department and agency shall collect and analyze all information necessary to effectively monitor the activities set forth in Section 105442, and shall prepare a biennial report describing the effectiveness of the efforts. This report shall be made available to local health departments and the general public.

105444. (a) The department shall adopt guidelines to implement this chapter, including, but not limited to, all of the following:

(1) The development of model protocols, or program guidelines, that address the science and practice of biomonitoring, to be utilized pursuant to this chapter and the procedures for changing those protocols to incorporate new and more accurate or efficient technologies as they become available. The model protocols shall comply with all of the following:

(A) They shall be developed utilizing a peer review process in a manner that is participatory and community-based in the design, implementation, evaluation, and communication of findings.

(B) They shall include guidelines for ensuring confidentiality, informed consent, followup counseling and support, and communicating findings to participants, communities, and the general public.

(C) For biomonitoring using breast milk, the guidelines for individual consultation and community education shall ensure that parents understand the importance of breastfeeding so that the program does not have any unintended and unwarranted negative effects upon a parent's decision whether to breastfeed.

(2) (A) The development of educational and outreach materials, for dissemination to program participants and communities, that are culturally appropriate and translated as needed.

(B) Priority shall be given to the development of materials specifically designed to ensure that parents are well informed about all of the benefits of breastfeeding so that the program does not result in an unjustified fear of toxins in breast milk which might inadvertently lead parents to avoid breastfeeding.

(C) The materials shall also communicate relevant scientific findings, body burden data, possible routes of exposure,

1 population-based health effects and toxicity, the benefits of linking  
2 chemical body burdens to community health, and the regulatory  
3 responses by local, state, and other governmental entities to  
4 regulate toxicant exposures.

5 (3) The development of a training program specifically for  
6 health care providers, health educators, and other program  
7 administrators that is culturally sensitive.

8 (4) The designation of state or private laboratories that are  
9 qualified to analyze biospecimens and report the findings.

10 (b) The guidelines shall also serve as a guide for other  
11 biomonitoring programs supported by state funds.

12 105445. The department, to the extent that funds are  
13 available, may enter into contractual agreements with health  
14 clinics, community-based organizations, or experts in a particular  
15 field to perform any of the activities enumerated in the guidelines  
16 adopted pursuant to Section 105444.

17 105446. To the extent that funds are available pursuant to this  
18 chapter, moneys may be allocated from the fund for the purpose  
19 of strengthening the state's laboratory capacity in order to meet the  
20 responsibilities enumerated in this chapter.

21 105447. The office, in consultation with the panel, and to the  
22 extent that funds are available, may evaluate the available data on  
23 the persistence, bioaccumulation, and toxicity of known potential  
24 alternatives to toxic chemicals pursuant to this chapter.

## 25 Article 2. The Advisory Panel

26  
27  
28 105448. (a) The department and agency shall establish the  
29 Healthy Californians Biomonitoring Program Advisory Panel.  
30 The panel shall be composed of two committees, the Scientific  
31 Committee and the Community Representative Committee, with  
32 a combined membership of 16 members.

33 (b) The secretary shall appoint the Chair of the Scientific  
34 Committee and the director shall appoint the Chair of the  
35 Community Representative Committee from the panel's  
36 membership, who shall also serve as cochairs of the panel.

37 (c) The panel shall meet as often as it deems necessary, with  
38 consideration of available resources, but at a minimum on a  
39 quarterly basis.

(d) Members of the panel and the committees shall serve without compensation, but shall be reimbursed for travel and other necessary expenses incurred in the performance of their duties under this chapter.

(e) The panel shall make recommendations to the division and office regarding the design and implementation of the program.

(f) The division, office, and the panel shall work and communicate with the Primary Care and Family Health Division of the department, and other offices concerning interagency information sharing and the synchronization of environmental tracking and policy formation. However, personal information, as defined in Section 1798.3 of the Civil Code, shall not be shared without the written and informed consent of the individual to whom it pertains.

(g) The department may consider the analytical methods utilized by the federal Centers for Disease Control and Prevention for the studies known collectively as the National Report on Human Exposures to Environmental Chemicals.

105449. The director, the secretary, the President pro Tempore of the Senate, and the Speaker of the Assembly shall each appoint four members of the panel. All members shall be appointed to the panel by July 1, 2006. Each member shall be appointed for a three-year term. All appointments made by the director and the secretary shall be approved by the Governor.

(a) The Scientific Committee shall be composed of eight members with background or training in interpreting biomonitoring studies or in related fields or science, including, but not limited to, the fields of health tracking, social science, laboratory science, occupational health, industrial hygiene, toxicology, epidemiology, environmental hazards, and public health.

(b) The Community Representative Committee shall be composed of eight members from the following nongovernmental organizations:

(1) One member from a breast cancer awareness organization.

(2) One member from an organization with a focus on environmental health.

(3) One member from an organization with a focus on environmental justice.

- 1 (4) One member from an organization with a focus on child  
2 environmental health.
- 3 (5) One member from an organization promoting  
4 breastfeeding.
- 5 (6) One member from a labor organization.
- 6 (7) One member from private industry with a verifiable and  
7 consistent commitment to sustainable core business practices that  
8 reduce environmental toxins.
- 9 (8) One member from a public health organization.
- 10 (c) (1) The director and the secretary shall appoint the  
11 following additional nonvoting members to the Community  
12 Representative Committee:
- 13 (A) One representative from the Maternal and Child Health  
14 Branch of the department.
- 15 (B) One member from each participating community.
- 16 (2) Members appointed pursuant to this subdivision may be  
17 reappointed at any time and are not subject to the three-year term.
- 18 105450. (a) The Scientific Committee shall review program  
19 priorities, draft protocols, study reports and the list of chemicals  
20 provided by the division and the agency, and make science-based  
21 recommendations to the panel on all of the following:
- 22 (1) Chemicals that should be added to or deleted from the list  
23 of chemicals of concern.
- 24 (2) Priorities for biomonitoring in California.
- 25 (3) The adequacy of draft protocols for biomonitoring  
26 investigations.
- 27 (4) The adequacy and appropriate interpretation of reports of  
28 biomonitoring investigations carried out under the program.
- 29 (5) Collecting and analyzing the data.
- 30 (b) The Community Representative Committee shall make  
31 recommendations to the panel on all of the following:
- 32 (1) Study sites or communities for the program, and identifying  
33 community partners.
- 34 (2) Review of model protocols, training programs, and  
35 educational and outreach materials.
- 36 (3) Review of draft legislative reports.
- 37 (4) Review the interpretation and dissemination of findings to  
38 biomonitoring program participants and to the general public.
- 39 (c) The Community Representative Committee shall consider  
40 the criteria and recommendations generated by the department's

Biomonitoring Planning Project, the California Environmental Health Tracking Network, and the California Environmental Health Tracking Program when making its recommendations.

### Article 3. Toxic Chemicals

~~105451.—The following chemicals are toxic chemicals subject to this chapter and the Legislature declares that these chemicals have met the criteria set forth in subdivision (b) of Section 105452. Any manufacturer or person who is responsible for either producing or distributing the chemicals shall pay the fees assessed by the agency as set forth in this chapter:~~

- ~~Aerolein~~
- ~~Alachlor~~
- ~~Antimony and compounds~~
- ~~Arsenic and compounds~~
- ~~Atrazine~~
- ~~Benzene~~
- ~~Benzyl Butyl Phthalate (BBP)~~
- ~~Beryllium and compounds~~
- ~~Bisphenol A~~
- ~~1,3-butadiene~~
- ~~Cadmium and compounds~~
- ~~Carbon tetrachloride~~
- ~~Chloroform~~
- ~~Chlordimeform~~
- ~~Chlorpyrifos~~
- ~~Chromium and compounds~~
- ~~Cobalt and compounds~~
- ~~Decabrominated diphenyl ethers (DecaBDE)~~
- ~~Diazinon~~
- ~~Dibutyl phthalate (DBP)~~
- ~~2,4-Dichlorobenzene~~
- ~~1,4-Dichlorobenzene~~
- ~~1,2-Dichloroethane~~
- ~~Di-20ethylhexylphthalate (DEHP)~~
- ~~Dichlorvos~~
- ~~Dicofol~~
- ~~Endosulfan~~
- ~~Ethyl benzene~~

- 1    ~~Lead and compounds~~
- 2    ~~Malathion~~
- 3    ~~Manganese and compounds~~
- 4    ~~Mercury and compounds~~
- 5    ~~Methomyl~~
- 6    ~~Methoxychlor~~
- 7    ~~Methyl chloroform~~
- 8    ~~Methyl Parathion~~
- 9    ~~Methylene Chloride~~
- 10   ~~Musk Ketone~~
- 11   ~~Musk Xylene~~
- 12   ~~Naled~~
- 13   ~~Paraquat~~
- 14   ~~Parathion~~
- 15   ~~Pentabrominated diphenyl ether (PentaBDE)~~
- 16   ~~Pentachloronitrobenzene~~
- 17   ~~Perchloroethylene~~
- 18   ~~2-phenylphenol~~
- 19   ~~Polybrominated biphenyls (PBBs)~~
- 20   ~~Perfluorooctanoic acid or chemicals that degrade to PFOA~~
- 21   ~~Perfluorooctane sulfonate~~
- 22   ~~Propoxur~~
- 23   ~~Tetrabromobisphenol A~~
- 24   ~~Toluene~~
- 25   ~~2,4-Toluene Diisocyanate~~
- 26   ~~Triclosan~~
- 27   ~~2,4,6-trichlorophenols~~
- 28   ~~Trifluralin~~
- 29   ~~Xylenes~~
- 30   ~~105452. — In addition to the list of toxic chemicals set forth in~~
- 31   ~~Section 105451, the director and the secretary may add additional~~
- 32   ~~105451. The director and the secretary shall identify and list~~
- 33   ~~toxic chemicals within the scope of this chapter if all of the~~
- 34   ~~following criteria are met:~~
- 35   ~~(a) The chemical is recommended for inclusion within the~~
- 36   ~~scope of this chapter by the Scientific Committee pursuant to~~
- 37   ~~Section 105450.~~
- 38   ~~(b) The secretary finds and director find all of the following:~~
- 39   ~~(1) The scientific, peer reviewed data from animal, cell, or~~
- 40   ~~human studies have demonstrated the chemical to be known or~~

1 strongly suspected to negatively impact human health by  
2 contributing to an increase in serious illness or mortality.

3 (2) Californians are exposed to the chemical.

4 (3) The chemical is listed as a toxic chemical on either a state  
5 or federal list.

6 ~~(4) The chemical has been found in sufficient quantities to~~  
7 ~~ensure that the fee assessment, when compared to the projected~~  
8 ~~administrative costs under this chapter associated with that~~  
9 ~~chemical, would be economically viable.~~

10 ~~105452.5.—~~

11 105452. (a) The director and the secretary shall phase in the  
12 implementation of this chapter. The director and the secretary shall  
13 prioritize the toxic chemicals set forth ~~in pursuant to~~ Section  
14 105451, ~~including chemicals added to the list pursuant to Section~~  
15 ~~105452,~~ according to the threat they pose to the public health.

16 (b) Commencing with the 2007–08 fiscal year, the director and  
17 the secretary shall implement this chapter, including, but not  
18 limited to, ~~the assessment of fees and the biomonitoring activities,~~  
19 only with regard to the 20 toxic chemicals that present the greatest  
20 public health risk.

21 (c) Commencing with the 2009–10 fiscal year, the director and  
22 the secretary shall implement this chapter, including, but not  
23 limited to, ~~the assessment of fees and the biomonitoring activities,~~  
24 only with regard to the 40 toxic chemicals that present the greatest  
25 public health risk.

26 (d) Commencing with the 2011–12 fiscal year, and each  
27 two-year period thereafter, the director and the secretary shall add  
28 no more than an additional 20 chemicals, in order of priority, to the  
29 implementation list established pursuant to this section.

30  
31 Article 4. Fiscal Provisions  
32

33 ~~105453.—The program implemented pursuant to this chapter~~  
34 ~~shall be fully supported from the fees collected pursuant to this~~  
35 ~~chapter. Notwithstanding the scope of activity mandated by this~~  
36 ~~chapter, in no event shall this chapter be interpreted to require~~  
37 ~~services necessitating expenditures in any fiscal year in excess of~~  
38 ~~the fees, and earnings therefrom, collected pursuant to this chapter.~~  
39 ~~Except for startup activities initially funded from startup loans, if~~



~~any, this chapter shall be implemented only to the extent that fee revenues are available for expenditure for purposes of this chapter.~~

~~105454. (a) There is hereby imposed a fee on the first point of sale on all of the following:~~

~~(1) Manufacturers and other persons who directly produce any toxic chemical set forth in this chapter.~~

~~(2) Any business or person who is in nonretail business and who distributes within the state any toxic chemical listed in this chapter.~~

~~(b) The agency shall, by regulation, establish an appropriate fee schedule to be assessed on manufacturers and distributors.~~

~~105455. (a) To the maximum extent practicable, the fees shall be assessed on the basis of a manufacturer's or person's present responsibility for environmental toxic chemical contamination.~~

~~(b) No fee shall be assessed upon any retailer of products containing toxic chemicals.~~

~~(c) The agency may collect the fees imposed pursuant to this section or may contract with the State Board of Equalization or another party for collection of fees due under this section.~~

~~105456. (a) The annual fee assessment shall be adjusted by the department and agency to reflect the increase in the annual average of the California Consumer Price Index, as recorded by the Department of Industrial Relations, for the most recent year available.~~

~~(b) No fee shall be assessed upon a party if that party demonstrates to the agency's satisfaction, or the agency determines that a party shall not be assessed, after providing scientific, academic, and peer reviewed research, that the party merits an exemption from this chapter because the party's conduct did not contribute in any manner to the toxic chemical contamination, or the toxic chemical does not currently result in quantifiably persistent human toxic chemical exposure.~~

~~(c) The agency shall conduct a review every two years, beginning with the 2011-12 fiscal year, to determine the appropriate levels for assessing the fee pursuant to this chapter. This review shall coincide with the two-year implementation phase in periods set forth in Section 105452.5.~~

~~105457. (a) The fee imposed pursuant to this chapter shall be collected by the agency or an entity that the agency contracts with~~

~~in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. The fees shall be deposited in the Healthy Californians Biomonitoring Fund, which is hereby established in the State Treasury. All fees collected pursuant to this chapter shall be deposited in the fund. All interest earned on the moneys that have been deposited into the fund shall be retained in the fund. Moneys in the fund are, notwithstanding Section 13340 of the Government Code, continuously appropriated to the agency for, and shall be expended for, the purposes of this chapter.~~

~~(b) The fees collected pursuant to this chapter and the earnings therefrom shall be used solely for the purposes of biomonitoring as set forth in this chapter. The agency shall not collect fees pursuant to this chapter in excess of the amount reasonably anticipated by the agency to fully implement this chapter. The agency shall not spend more than it collects from the fees and the earnings in implementing this chapter including repayment of startup loans, if any.~~

~~(c) Commencing with the 2007-08 fiscal year, the agency shall collect not more than four million dollars (\$4,000,000) per fiscal year in fees pursuant to this chapter as adjusted pursuant to Section 105456. Commencing with the 2009-10 fiscal year, the agency shall collect not more than eight million dollars (\$8,000,000) per fiscal year in fees pursuant to this chapter, as adjusted pursuant to Section 105456. Commencing with the 2011-12 fiscal year, and each fiscal year thereafter, the agency shall collect not more than twelve million dollars (\$12,000,000) per fiscal year in fees pursuant to this chapter, as adjusted pursuant to Section 105456.~~

~~(d) The adoption, amendment, or repeal of a regulation for fee assessment and collection, including subsequent amendments or adjustments, authorized by this chapter is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). However, upon adoption, the regulation shall be filed with the Secretary of State and printed in the California Code of Regulations.~~

*105453. The department and agency shall jointly seek funding for the purposes of the program established by this chapter from federal and private sources. Funding sources may include private organizations, federal funding, or state appropriation. Any funds*

1 collected by the department and agency exclusively for the  
2 purposes of this chapter pursuant to this section shall be deposited  
3 into the Healthy Californians Biomonitoring Fund, which is  
4 hereby established in the State Treasury. The department and  
5 agency shall jointly determine when a sufficient amount of funds  
6 have been deposited in the fund to commence implementation of  
7 this chapter.

8 105454. All interest earned on the moneys that have been  
9 deposited into the fund shall be retained in the fund. Moneys in the  
10 fund are, notwithstanding Section 13340 of the Government Code,  
11 continuously appropriated to the agency for, and shall be expended  
12 for, the purposes of this chapter.

13 105458. Costs associated with administration of the program;  
14 shall not exceed 15 percent of the entire amount deposited into the  
15 fund in any fiscal year.

#### 16 Article 5. Reporting

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19 105459. (a) The department shall provide the public access  
20 to information which they are required to release pursuant to the  
21 California Public Records Act (Chapter 3.5 (commencing with  
22 Section 6250) of Division 7 of Title 1 of the Government Code)  
23 in a manner that is timely and understandable to the average  
24 person.

25 (b) The division and office shall disseminate biomonitoring  
26 findings to the general public via governmental and other Web  
27 sites. All health and environmental exposure data shall be  
28 provided to the general public in a summary format to protect the  
29 confidentiality of program participants. Within 30 calendar days  
30 after the division releases its interim and final report to the  
31 Legislature, the reports shall be made available to the public.

32 105460. (a) By January 1, 2009, the department shall submit  
33 a report to the Legislature summarizing the first activities of the  
34 program, including program descriptions, methodology, program  
35 outcomes, and assessment of the activities of the various  
36 biomonitoring functions conducted pursuant to this chapter.

37 (b) By January 1, 2011, in consultation with the panel, the  
38 department shall submit a report to the Legislature regarding  
39 recommendations on improving the program based on the first  
40 activities and findings. The report shall include a summary of the

1 biennial reports prepared pursuant to Section 105443. The  
2 department shall annually, in consultation with the panel, forward  
3 a report to the Legislature on the program, policy, and report  
4 findings.

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